

ORDER BELOW EXH-1

1. Present suit has been filed by the plaintiff for the declaration stating that, they are the owner of the suit property situated at survey no. 795 in village Sinhol, Ta. Petlad, Dist. Anand. The plaintiff further stated that, the suit property is known as "Bavaniya Kuwa".The plaintiff further, stated that, he had filed the suit vide R.C.S.No. 39/1980 on dated 07/02/1980 in which settlement took place and plaintiff and defendant were declared as owner and occupier of the suit property. The plaintiff further stated that, the present defendant are trying to disturb the possession of the present plaintiff and trying to take away the possession of the present plaintiff and hence, plaintiff is compelled to file the present suit against the defendant.
2. The notices served to the defendants appeared through advocate, and defendant appeared before the court and filed reply Exh. 14, and thereafter, the matter proceeded for interim injunction application which was rejected by my Ld. Predecessor and thereafter issued framed on 16/07/2016 and since then matter is pending for plaintiff evidence. Meantime, the plaintiff no. 2 had expired during the pendency of the suit and hence, the plaintiff gave an application for condonation of delay vide Exh. 44 on dated 22/01/2019 and which was allowed on payment of Rs. 9,000/- in T.L.S.A. Petlad, Dist. Anand, but as plaintiff failed to deposit the said amount and hence, the application of Exh.45 for bringing legal heirs on record was rejected and since then, the matter is pending. Looking at the record as well as rojkaam plaintiff and his advocate did not turned up since last 7 years nor file any evidence nor gave any adjournment application.
3. The present suit is more than **17 years** old, and till today the plaintiff had failed to remain present and proceed further. Even looking at the record, the plaintiff's conduct is seen that, he is least interested to proceed with the

matter. Moreover, present court is relying on the judgment of our Hon'ble High Court which is as under,

The hon'ble High Court of Gujarat has held in case of PATEL SHANKARBHAI VIRABHAI V/S. PATEL NARAYANBHAI AMBALAL (CIVIL APPLICATION No. 426 of 2010 dated 10/11/2011) that '**A litigant cannot say that since he entrusted the matter to a lawyer he would thereafter go in slumber. A litigant also owes a duty to keep a constant watch on the proceedings.**'

4. It is well settled that “the Law helps who awake and not the sleepy person”. So looking to the conduct of the plaintiffs it is transpired that the plaintiffs do not want to proceed in present suit. The Court suo-moto granted the adjournment in interest of justice but neither the advocate appear nor the plaintiff. Hence, matter being more than **17 years** old granting suo-moto adjournment would not be in interest of justice. Hence in the interest of justice following order is passed.

ORDER

- ◆ Present suit is dismissed for default under Order-9 Rule-3 of C.P.C.
- ◆ No order as to cost.
- ◆ Any order passed in favour of the plaintiff stand vacated.

Date : 01/07/2026

(ARUN J. VASU)

Place : Petlad

Additional Senior Civil Judge,

Petlad

CODE : GJ01397